Report of Expert Group for review of IT Act

1362. SHRI C. PERUMAL: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) whether the expert group constituted for an indepth review of issues relating to Information Technology Act, 2000 have submitted its report;

(b) if so, the details thereof; and

(c) what action has been taken on the recommendations, so far?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEEL AHMAD): (a) Yes, Sir.

(b) The summary of the recommendations of the Expert Committee is given in the enclosed statement (*see* below).

(c) The recommendations of the Expert committee has been deliberated at length in the Ministry and the Draft Cabinet Note has been prepared based on the recommendations. Draft Cabinet Note has already been circulated for inter-ministerial consultations.

Statement

Summary of the recommendations of the Expert Committee

1. As the technologies and applications in IT sector change very rapidly, some of the provisions related to parameters that may change from time to time have been suggested to provide for the new developments to be corporated by changes in rules/govt. notifications. This would enable the law to be amended and approved much faster and would keep our laws in line with the changing technological environment.

2. In view of changing needs, operation of the Sub-section 4 of Section 1 may be made more flexible through prescription of such exception by rules rather than being part of the main Act.

3. The Committee has restructed several provisions in relation to recognition of Digital signatures, e-governance, penalties and adjudication. The suggestion is to make the Information Technology Act technically natural with minimum change in the IT Act, 2000. The amendment have been suggested in Section 4 of the Act to provide for electronic signature.

With digital signature as one of the types of electronic signature and by enabling the detail of other form of electronic signature to be provided in the rules to be notified by the Central Government from time to time. This is enabling provision for Central Government to exercise as to when the technology other than digital signature matures.

4. The Committee has revisited Section 43, 65, 66, 67, 72 and 79 to focus issues pertaining to data protection and privacy so as to enable healthy business environment. The stringent provisions have been suggested in the Section. Proposals at Section 43(ii) related to enabling of sensitive personnel with reasonable security proposals and procedures thereto have been recommended. The amendments have been suggested in Section 72 pertaining to breach of confidentiality and privacy. A new Sub-section as 72(ii) has been suggested to prevent intermidiaries to disclose information relating to user without his consent.

5. The Section 72 pertaining to breach of confidentiality have been redefined. The report of the Expert Committee seeks to address the new phenomenon of video voyeurism, including transmission of MMS clips, the images of private areas of individuals without knowledge and its transmission without their consent. The new sub-Section has been proposed in Section 72 of the IT Act, 2000.

6. Amendment have been recommended in Section 69 of the IT Act, 2000 relating to the power to issue protection for inspection and monitoring any information through computer resource to take care of the concerns expressed by Ministry of Home Affairs.

7. In line with the Indian Penal Code, the Expert Committee has advocated classifications of Cyber Laws in cognizable and non-cognizable accordingly. Language of Section 66 related to computer related offences may be revised to be in lines with Section 43 related to penalty for damage to computer resource. These have been graded with less degree of severity of offence when done by any person, dishonestly or fraudulently without the permission of the owner.

8. Section 67 related to Obscenity in electronic form has been revised to bring in line with IPC and other laws but fine has been increased because of ease of such operation in electronic form; link up with Section 79 w.r.t. liability of intermediary in certain cases has been provided.

9. A new section 67(2) has been suggested to address child pornography with higher punishment, a globally accepted offence.

10. A new Section 68(1) has been proposed for providing modes and methods for encryption for secure use of the electronic medium, as recommended by earlir Inter Ministerial Working Group on Cyber Laws & Cyber Forensics (IMWG)

11. A new section 78 A (Examiners of Electronic Evidence) may be added to notify the examiners of electronic evidence by the Central Government. This will help the Judiciary/Adjudicating officers in handling technical issues.

12. Section 79 has been revised to bring-out explicitly the extent of liability of intermediary in certain cases. EU Directive on E-Commerce 2000/31/EC issued on June 8th 2000 has been used as guiding principles. Power to make rules w.r.t. the functioning of the "Intermediary" including "Cyber Cafes" has been provided for under Section 87.

Cyber Appellate Tribunal

1363. SHRI C. PERUMAL: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) whether the proposed Cyber Appellate Tribunal will consist of only the Presiding Officer; and

(b) how the Cyber Appellate Tribunal will be able to justify its work, considering its technical nature, as no technical qualification has been prescribed for the Presiding Officer?

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY (DR. SHAKEEL AHMAD): (a) Yes, Sir.

(b) It is proposed that the Cyber Appellate Tribunal should consist of a Chairperson and two Members, out of which, one of the Member would be a technical member.

Setting up of Software Technology Park in Himachal Pradesh

†1364. SHRI KRIPAL PARMAR: Will the Minister of COMMUNICATIONS AND INFORMATION TECHNOLOGY be pleased to state:

(a) whether it is a fact that Software Technology Park of India was set up in 1991 by Government to promote software exports;

(b) if so, whether Government of Himachal Pradesh have expressed a

†Original notice of the question was received in Hindi.